



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33361971

Date: AUG. 27, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a carbohydrate chemist research scientist, seeks classification as an individual of extraordinary ability. Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not submit sufficient evidence establishing that he had satisfied at least three of the ten initial evidentiary criteria for this classification as set forth in the regulations. Namely, the Director determined that the Petitioner satisfied the requirements of the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), which require evidence that he participated as a judge of the work of others in field and evidence that he wrote scholarly articles that were published in major trade publications, respectively. However, the Director concluded that the Petitioner did not demonstrate that he met the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires evidence that the Petitioner made original scientific or scholarly contributions of major significance in his field.

On appeal, the Petitioner argues that the Director did not properly assess the submitted evidence and entirely overlooked the Petitioner's claim that he satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(i), which requires evidence that the Petitioner received a lesser nationally or internally recognized prize or award. While the Director acknowledged the newly submitted evidence, she did not discuss or mention the criterion at 8 C.F.R. § 204.5(h)(3)(i), nor did she acknowledge that the additional evidence was submitted in support of this criterion and instead assessed the evidence with respect to the criterion at 8 C.F.R. § 204.5(h)(3)(v).

Further, regarding the criterion at 8 C.F.R. § 204.5(h)(3)(v), the Petitioner correctly points out that although the Director acknowledged his submission of letters of recommendation, the Director did not discuss the contents of those letters and thus did not adequately explain how the evidence fell short of supporting the Petitioner's claim pertaining to this criterion.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter

de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review and because of the deficiencies discussed above, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.